

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANAS OSAMA IBRAHIM ABDIN,	:	
	:	
Plaintiff,	:	No. 1:18-cv-07543-LGS
	:	
v.	:	Hon. Lorna G. Schofield
	:	
CBS BROADCASTING, INC and/or CBS CORP.	:	<u>DECLARATION OF WOOK HWANG</u>
and/or CBS ALL ACCESS, and/or CBS	:	
INTERACTIVE Netflix, INC.,	:	
	:	
Defendants.	:	
-----X	:	

I, Wook Hwang, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an attorney at Loeb & Loeb LLP, attorneys for Defendants CBS Broadcasting Inc., CBS Interactive Inc., CBS Corporation and Netflix, Inc., in the above-captioned action. I am fully familiar with the facts set forth herein, and respectfully submit this declaration in support of Defendants’ motion, pursuant to Fed. R. Civ. P. 12(b)(6), to dismiss the Third Amended Complaint (“TAC”) of Plaintiff Anas Osama Ibrahim Abdin for failure to state a claim upon which relief may be granted.

2. Attached hereto as Exhibit 1 is a true and correct copy of an article titled “Tardigrades Survive Exposure to Space in Low Earth Orbit” published on September 9, 2008 in Volume 18, Issue 17 of the scientific periodical *Current Biology* (available at <https://www.sciencedirect.com/science/article/pii/S0960982208008051>), discussing the so-called “TARDIS” experiment concerning tardigrades’ ability to survive unprotected in space. As the authors explain in the summary: “Here, we show that tardigrades are also able to survive space vacuum without loss in survival, and that some specimens even recovered after combined

exposure to space vacuum and solar radiation. These results add the first animal to the exclusive and short list of organisms that have survived such exposure.”

3. Attached hereto as Exhibit 2 is a true and correct copy of an Internet blog maintained at <http://tardigradesinspace.blogspot.com>, describing the aforementioned TARDIS experiment and linking to several Internet posts and articles concerning the experiment from 2007 through 2009.

4. Attached hereto as Exhibit 3 is a true and correct copy of an article titled “How Does the Tiny Waterbear Survive in Outer Space?” published on September 1, 2012 on the website of Smithsonian Magazine at <https://www.smithsonianmag.com/science-nature/how-does-the-tiny-waterbear-survive-in-outer-space-30891298>. This is one of numerous articles available on the Internet discussing tardigrades’ ability to survive in space following the aforementioned TARDIS experiment, as a simple Google search confirms.

5. Attached hereto collectively as Exhibit 4 are true and correct copies of two articles published on September 1, 2009 and May 17, 2011 on the websites of Scientific American and BBC, respectively (<https://www.scientificamerican.com/article/phobos-grunt-mars/#googDisableSync>; <http://www.bbc.co.uk/nature/12855775>), describing two additional space-based experiments involving tardigrades by the Russian Federal Space Agency and the Italian Space Agency.

6. Attached hereto as Exhibit 5 is a true and correct copy of certain excerpts from the 2010 children’s fantasy novel *The Search for WondLa* by author Tony DiTerlizzi and published by Simon & Schuster, which includes an illustration of and textual references to the tardigrade character named Otto. As reflected in these excerpts, Otto is an enlarged tardigrade referred to as “gargantuan”(pg. 110), “behemoth” and “the size of an elephant” (pg. 206). In an

encounter with Otto's herd, his brethren are described as being "carried by strange and wondrous currents" and as "drift[ing] and danc[ing] through the gloaming" (pg. 376) and, later, as "[l]arge glowing life-forms" that are "giant tardigrades" (pgs. 406-07).

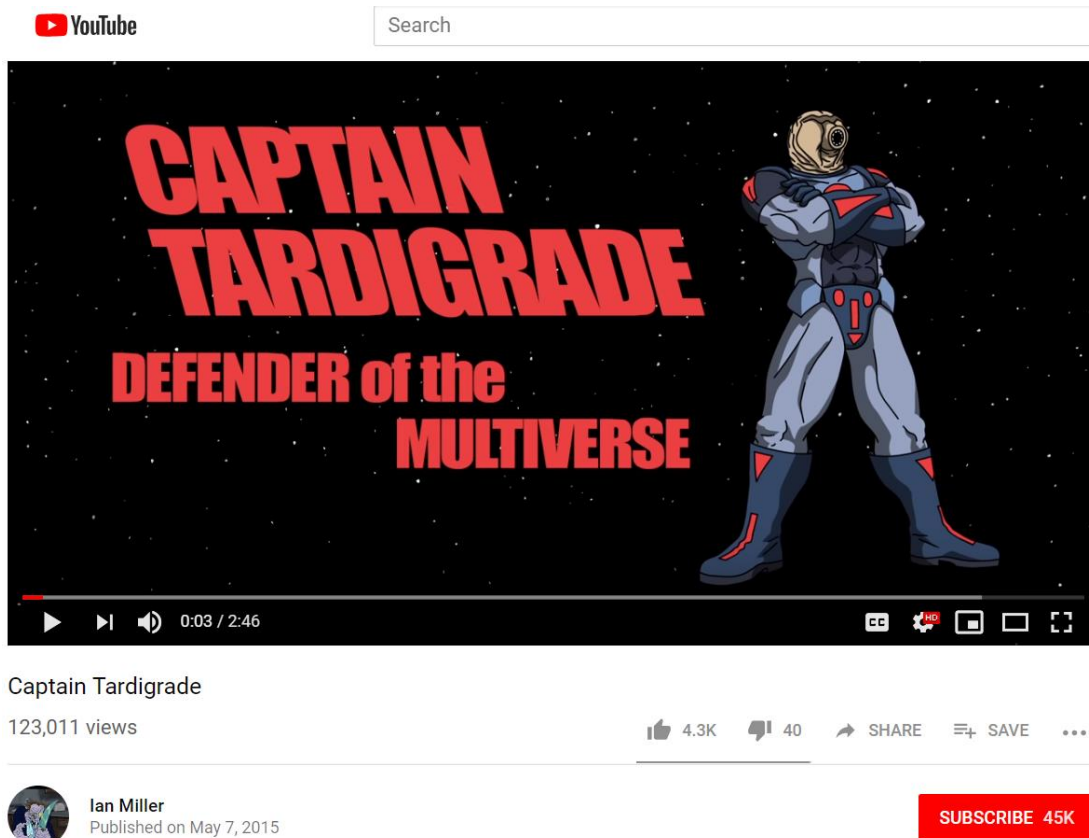
7. Attached hereto as Exhibit 6 is a true and correct copy of certain excerpts from the 2013 science fiction novel *The Science of Discworld IV: Judgment Day* by Sir Terry Pratchett, Ian Stewart and Jack Cohen and published by Penguin Random House, which features a discussion of tardigrades' capacity to resist radiation.

8. Attached hereto as Exhibit 7 is a DVD set containing true and correct copies of the episodes comprising the fifth season of the Cartoon Network television series *Adventure Time*. Episode 45 titled "Blades of Grass," which aired in January 2014, depicts a creature dubbed the "Grass Bear" based on a tardigrade that features its eight appendages and unique ringed mouth structure (Ex. 7, Disc 4, Ep. 45 at 9:21-9:49):



9. Attached hereto as Exhibit 8 is a DVD set containing true and correct copies of the episodes of the non-fiction television series *Cosmos: A Spacetime Odyssey* presented by Neil deGrasse Tyson. Disc 1, Episode 2 ("Some of the Things That Molecules Do"), at 35:10-36:13, and Disc 2, Episode 6 ("Deeper, Deeper, Deeper Still"), at 4:45-5:44 – which aired in March and April 2014, respectively – feature discussions of tardigrades' unique ability to survive in space.

10. Attached hereto as Exhibit 9 is a DVD containing a true and correct copy of a video titled *Captain Tardigrade* posted to YouTube by animator Ian Miller (available at <https://www.youtube.com/watch?v=OUrz4CtGuOM>), which is the first in a series of comic animations featuring a humanoid space-faring tardigrade dubbed “Captain Tardigrade, Defender of the Multiverse”:



Also included in Exhibit 9 is a true and correct copy of a screen capture of the foregoing YouTube page, showing that this video was posted to YouTube on May 7, 2015.

11. Attached hereto as Exhibit 10 is a true and correct copy of an article titled “How Tardigrades Saved the Enterprise” and published on May 31, 2013 on the website of the periodical Scientific American at <https://blogs.scientificamerican.com/but-not-simpler/how-tardigrades-saved-the-enterprise/>.

12. Attached hereto as Exhibit 11 is a true and correct copy of a screen capture of the YouTube page for the earliest of the videos posted by Plaintiff that relate to his *Tardigrades* games concept (available at <https://www.youtube.com/watch?v=BIYbDht5EfU>). This video begins at 20:22 on the video file named “Exhibit K-H” (the “Video Compilation”) that Plaintiff has submitted with the TAC. As shown in the foregoing YouTube page, this first *Tardigrades* video was posted to YouTube on May 16, 2015, but does not depict or discuss any tardigrades.

13. Attached hereto as Exhibit 12 is a true and correct copy of a screen capture of the YouTube page for the earliest of the videos posted by Plaintiff that actually depicts a tardigrade (available at https://www.youtube.com/watch?v=y1pLIla_WfM). This depiction is seen on the Video Compilation at 23:24, and shows the following sequence of a tardigrade fading into the background:



As shown in the foregoing YouTube page, this video was posted to YouTube on July 29, 2015.

14. Attached hereto as Exhibit 13 is a true and correct copy of a screen capture of the YouTube page for the only one of Plaintiff’s videos that includes the following “tardigrade-hug” sequence (available at <https://www.youtube.com/watch?v=ikHgCwM84LY>), as shown in the Video Compilation at 29:20-33 and in Plaintiff’s 2018-registered treatment (TAC, Ex. A):



As shown in the foregoing YouTube page, this video was posted to YouTube on July 12, 2017.

15. Attached hereto as Exhibit 14 is a DVD set containing true and correct copies of all 15 episodes of the first season of *Star Trek: Discovery*, which aired between September 2017 and February 2018.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 12, 2019

/s/ Wook Hwang
WOOK HWANG